



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making**Agency:** Office of the Insurance Commissioner☒ **Preproposal Statement of Inquiry** was filed as WSR 12-22-069 ; or☐ **Expedited Rule Making--Proposed notice** was filed as WSR _____ ; or☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**☐ **Original Notice**☐ **Supplemental Notice to WSR** _____☐ **Continuance of WSR** _____**Title of rule and other identifying information:** (Describe Subject) Health Plan Carrier Allocation Account Requirements

Commissioner Matter No. R2012-28

Hearing location(s):Training Room (T-120)
5000 Capitol Blvd S
Tumwater WADate: March 26, 2013 Time: 10:00 a.m.**Submit written comments to:**Name: Meg L. Jones
Address: P.O. Box 40258
Olympia WA 98504
e-mail rulescoordinator@oic.wa.gov
Fax: 360-586-3109 by (date) March 25, 2013**Assistance for persons with disabilities:** ContactContact Lorie Villaflores by March 24 , 2013
TTY (360) 586-0241 or (360) 725-7087**Date of intended adoption:** March 28, 2013(Note: This is **NOT** the **effective** date)**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

Section 1303 of the Affordable Care Act (Pub. L. 111-148, 2010, as amended) requires carriers to establish allocation accounts that segregate subsidy funding for a plan's abortion benefit from other premium funds received from Exchange enrollees. The section also requires inclusion of notice of the fund segregation in the Summary of Benefits and Coverage Explanation. Specifically, 1303(b)(E)(i) places the obligation to ensure compliance with the segregation requirements on state insurance commissioners.

In order to participate in the Exchange, carriers must be in good standing with the Office of the Insurance Commissioner. Being in compliance with this accounting procedures requirement is one of the elements of good standing, and under the Affordable Care Act, confirmation of compliance is specifically delegated to the state insurance regulator. The proposed rule explains the Commissioner's implementation of the Affordable Care Act's requirements in this regard.

Statutory authority for adoption: RCW 48.02.060**Statute being implemented:** Section 1303 (b), Affordable Care Act, Pub. Law 111-148, 2010, as amended.**Is rule necessary because of a:**

Federal Law?

☒ Yes ☐ No

Federal Court Decision?

☐ Yes ☐ No

State Court Decision?

☐ Yes ☐ No

If yes, CITATION:

Sec. 1303 (b), Pub. Law 111-148, 2010 as amended

DATE

February 19, 2013

NAME (type or print)

Mike Kreidler

SIGNATURE**TITLE**

Insurance Commissioner

CODE REVISER USE ONLY**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED****DATE: February 19, 2013****TIME: 4:10 PM****WSR 13-05-076**

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Office of the Insurance Commissioner

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Meg Jones	302 Sid Snyder Blvd S, Olympia WA	360-725-7170
Implementation....Jim Odiorne	5000 Capitol Way S Tumwater WA	360-725-7214
Enforcement.....Carol Sureau	5000 Capitol Way S Tumwater WA	360-725-7050

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared. None of the businesses affected meets the definition of small business.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Meg Jones

Address: 302 Sid Snyder Blvd
Olympia WA 98504

phone (360) 725-7170

fax (360) 586-3109

e-mail [rulescoordinator @oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

☐ No: Please explain:

NEW SECTION

WAC 284-07-540 Issuer segregation of premium accounting plan.

(1) For purposes of this section, "issuer" has the definition found in RCW 48.01.053.

(2) A health plan issuer, whether domestic, foreign or alien, must obtain the commissioner's prior written approval of its accounting practice plan for segregating premium allocated to a termination of pregnancy benefit. This requirement only applies to qualified issuers certified through the health benefit exchange, for qualified health plans issued on the exchange.

(a) The segregation plan must describe the accounting practices the issuer will use to ensure segregation of federal funds for premium and claims for nonexcepted termination of pregnancy benefits from other premium received from an enrollee who receives a premium tax benefit or cost-sharing subsidy pursuant to enrollment on the health benefit exchange. The segregation plan must allocate the two types of premium to separate accounts (allocation accounts). The segregation plan must also ensure that claims for the nonexcepted termination of pregnancy benefit are not paid from an allocation account into which federal funds are placed.

(b) The segregation plan must ensure strict separation of funds between the allocation accounts, and include at least one allocation account solely for the deposit of private premium dollars used to pay for abortion coverage, and a second allocation account to process premium dollars paid for all other covered benefits.

(c) This rule does not require an issuer to conduct two separate premium transactions with enrollees. For purposes of approval by the commissioner, the segregation of premium may occur solely as an accounting transaction.

(3) A health plan issuer must submit its plan to the commissioner in writing more than thirty days prior to its proposed effective date, and may not be used until thirty days after the commissioner has approved the plan in writing. For good cause, the commissioner may reduce either time period.

(4) A health plan issuer may not implement any changes or amendments to its segregated account accounting plan prior to receiving the commissioner's written approval.

(5) Instructions as to how and where an issuer must send its request for approval of its segregation of premium accounting plan may be found on the commissioner's web site at www.insurance.wa.gov.

(6) A filing under this section must include the following information:

(a) The proposed effective date and the date of the first filed financial statement in which the proposed segregated account

will be reported;

(b) A description of accounting systems for processing premium payments for products on the exchange that offer termination of pregnancy benefits, including:

(i) The financial accounting systems, including documentation and internal controls, to ensure the appropriate segregation of payments received for coverage of nonexcepted termination of pregnancy benefits from those received for coverage of all other services, which may be supported by federal premium tax credits and cost-sharing reduction payments;

(ii) The financial accounting systems, including accounting documentation and internal controls, that ensure that all expenditures for nonexcepted termination of pregnancy benefits are reimbursed from the appropriate allocation account; and

(iii) An explanation of how the issuer's systems, including accounting documentation and internal controls meet the requirements for segregation accounts under the law.

(7) After an accounting practice plan for segregating premium has been approved, an issuer must file with its annual statement filed with the commissioner on or before March 1st of each year:

(a) Certification that the issuer is certified as a qualified issuer through the exchange;

(b) An annual supplemental information schedule containing a reconciliation of all segregated account activity (beginning balance + receipts - disbursements = ending balance) for the year. The annual supplemental information schedule shall be electronically filed with the commissioner in PDF format in compliance with the form and instructions contained on the commissioner's web site;

(c) The annual supplemental information schedule shall contain an affirmation of the issuer's CEO and CFO that the financial accounting systems, including accounting documentation and internal controls, of the segregated account covered by the annual supplemental information schedule meet the requirements for segregated accounts under the ACA;

(d) The annual audit of issuers conducted by independent certified public accountants, in addition to all other requirements of opinions, shall opine on whether the supplementary information contained in the annual supplemental information schedule is fairly stated, and, if the segregated accounts financial accounting systems, including documentation and internal controls, comply with the requirements of the ACA. The CPA report will be filed with the issuers annual audited financial statement filed with the commissioner;

(e) Stating the amount of premium segregated for each product offered on the exchange, calculated as if the coverage were included for the entire population of enrollees. The amount of premium must not be less than one dollar per enrollee, per month; and

(f) Stating the number of enrollees, by plan for the benefit year, for whom premium was segregated pursuant to this rule, P.L. 111-148 (111th Congress, 2010), at Section 1303(b)(2)(B) and (C), and 45 C.F.R. Sec. 156.280.

(8) The commissioner may periodically audit issuers and each product subject to which this regulation applies to verify compliance. The commissioner will retain working papers and periodic audit reports for a period of not less than three years, and may make the reports available to the state health benefit exchange or the U.S. Department of Health and Human Services upon request.